Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue N.W.
Suite 100
Washington, D.C. 20006-6801

202-955-3000
FAX 202-955-5564
www.hklaw.com

DOCKET FILE COPY ORIGINAL

ORIGINAL

Annapolis
Atlanta
Bethesda
Boston
Bradenton
Chicago
Ft. Lauderdale
Jacksonville
Lakeland
Los Angeles
Melbourne
Miami
International Offices
Caracas*
Helsinki
Mexico City
Rio de Janeiro
New York
Northern Virginia
Orlando
Portland
Providence
St. Petersburg
San Antonio
San Francisco
Seattle
Tallahassee
Tampa
West Palm Beach
São Paulo
Tel Aviv*
Tokyo
*Representative Offices

RECEIVED

DEC - 5 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 5, 2002

HOLLY RACHEL SMITH
202-457-2619
hrsmith@hklaw.com

VIA HAND DELIVERY

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45;
Local Competition Provisions of the 1996 Act, CC Docket No. 96-98;
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338;
Deployment of Wireline Services Offering Advanced Telecommunications Capability. CC Docket No. 98-147;
Appropriate Framework for Broadband Access to the Internet over Wireline Facilities. CC Docket No. 02-33:
Access Charge Reform. CC Docket No. 96-262;
Complete Detanffing for Competitive Access Providers and Competitive Local Exchange, CC Docket No. 97-146;
Report of ***ex parte*** Presentation

Dear Secretary Dortch:

On December **3,** 2002, representatives of Telephone & Data Systems, Inc. and its affiliates made three separate ***ex parte*** presentations in the above-referenced proceedings *to* the Commission personnel listed below. In each of the meetings, the discussions were based on the attached handout. The attendees of the meetings were as follows:

No. of Copies rec'd 0+10
List ABCDE

1. Leroy T. Carlson, Jr., President and CEO of Telephone & Data Systems, Inc. ("TDS"); Kevin Hess, Vice-president -- Federal Affairs of TDS Telecommunications Corporation ("TDS Telecom"), Mark Jenn, Manager – Federal Affairs of TDS Metrocom, and Margot Humphrey of Holland & Knight LLP met with William Maher, Jeff Carlisle, Carol Mattey, Rich Lerner, Cathy Carpino, and Jane Jackson of the Wireline Competition Bureau.

2. Messrs. Carlson, Hess and Jenn and Ms. Humphrey met with Commissioner Copps and Jordan Goldstein, Senior Legal Advisor to Commissioner Copps.

3. Messrs. Carlson, Hess, and Jenn and Ms. Humphrey met with Matthew Brill, Legal Advisor to Commissioner Abernathy, and Curt Stamp of Commissioner Abernathy's office.

As noted, the substance of the above-referenced meetings is described in the handout attached to this *ex parte* notice. If you have questions, please do not hesitate to contact Margot Humphrey at (202) **457-5915.**

Very truly yours,

Holly Rachel Smith

Enclosure
cc: Commissioner Michael J. Copps
Jordan Goldstein
Matthew Brill
Curt Stamp
William Maher
Carol Mattey
Jeff Carlisle
Cathy Carpino
Jane Jackson

TDS Telecom Overview

TDS Telecom exemplifies the goals of the Telecom Act of 1996. Our ILEC operating companies have been providing high quality, affordable telecommunications services to rural communities for 100 years. Championing the economic development of these communities is an integral part of our corporate mission. When the 1996 Act opened local markets to competition, TDS Telecom used its decades worth of knowledge and experience to bring competitive alternatives to small and medium-sized communities outside of our ILEC footprint. TDS Telecom's CLEC operating companies are market-sawy competitors with solid business plans, serving both residential and business customers.

ILEC Operations

- 108 local exchange companies in 28 states
- Over 700,000 access lines
- DSL service to over 8100 customers
- Long distance service to over 175,000 customers
- Internet access service to over 100,000 customers
- Company sizes range from 571 to 70,000 access lines
- Average number of access lines per square mile - 19; RBOC average - 128

CLEC Operations

- Operating in 6 states, competing primarily with SBC-Ameritech and Qwest
- Generally serve cities with between 10,000 and 100,000 in population
- Predominantly facilities based with 8 switches deployed and over 100 collocations
- Nearly 300,000 equivalent access lines in service
- DSL service to over 11,000 customers
- Continued strong growth, nearly 100% annually

Current and proposed **FCC** policies make it very difficult for **TDS** Telecom to commit scarce corporate resources to deploying new technologies, expanding into additional **CLEC** markets and acquiring rural properties where facilities often need costly upgrades. **To** reduce the barriers to investment in all but the largest markets, the **FCC** should:

Retain its Title II authority over broadband-capable facilities and services

- The cost of deploying DSL in many rural TDS markets is prohibitive and only through cost pooling is there any prospect for DSL deployment in the near future. Removing broadband services from Title II regulation will interfere with NECA cost pooling.
- Defining broadband services as "information services" deprives the FCC of the ability to add broadband services to the list of supported universal services when appropriate. **As** broadband becomes as critical to economic growth as basic telephone service is today, rural communities cannot afford to be left behind.
- Pursuing broadband "parity" through complete deregulation will slow broadband deployment. Rural areas will gain no benefits from broadband regulatory parity, and suburban and metropolitan markets will continue to lose competitive choices.

Adopt regulatory policies that encourage facilities-based **CLEC** entry

- To survive and justify investment in true, facilities-based competition, CLECs need access to the "last mile" to compete as full-service providers of broadband and voice services. The FCC must maintain access to broadband loops, loops behind DLCs, fiber loops, conditioned loops, sub-loops and high capacity loops because nationwide duplication is uneconomic.
- The FCC must modify its CLEC access benchmark levels. Capping CLEC interstate access rates at below-cost levels punishes facilities-based CLECs like TDS that serve higher-cost residential customers and small- to medium-sized markets. Smaller CLECs do not have millions of customers or billions of dollars of investment over which to average access costs.
- The FCC must enforce payment of lawful CLEC access charges. AT&T and other IXCs continue to withhold access payments they owe, even to CLECs with interstate access rates that comply with the FCC benchmarks. AT&T owes the TDS CLECs over *$5* million for interstate access traffic alone.

Design high *cost* mechanisms to support organic rural networks, not disembodied access lines

- To provide universal service, incumbent rural carriers incur the costs of providing high cost service at "reasonably comparable" prices under a network or system deployment plan, not on a loop-by-loop or unit-of-switching-capacity basis. Therefore, the loss of one or more customers does not reduce costs.
- Federal universal service support provides an essential part of the cost recovery that allows ILEC networks to provide high quality service to customers in even the most sparsely populated parts of their high cost areas and to meet their "carrier of last resort" obligations.
- The Commission decided to divide an ILEC's support and costs by lines solely for convenience in measuring portable support. This gives the false impression that ILECs can economically recover costs (including support) on a "per line" basis or can economically segregate the costs of "primary" and "secondary" lines.
- The Act's requirement for a state "public interest" finding to justify supporting a second carrier in rural ILEC areas recognizes that small, low volume and less dense networks and their customers are more vulnerable to damage from supporting more than one carrier and two or more less efficient networks in a high cost area.